

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

CARL A. WESCOTT,

Plaintiff,

V.

1:22-CV-00785-DII

WILLIAM RUSS; LAS OLAS;

KELI RUSS; LAS OLAS ECUADOR, INC.;

DAVID MAKSYMUIK;

BOBBY CASTLE CONSTRUCTION;

TEXAS FIXTURES AND INTERIORS, INC.;

and VISTA PACIFICA, LLC,

Defendants.

ORDER

Before the Court is the report and recommendation from United States Magistrate Judge Dustin M. Howell concerning Defendants' Motion to Dismiss Plaintiff's Amended Verified Legal Complaint for Breach of Contract, Promissory Fraud, Negligent Misrepresentation, Promissory Estoppel, Negligence, Breach of Fiduciary Duty, Unjust Enrichment, and Abuse of Process and Brief in Support, (Dkt. 13). (R. & R., Dkt. 18). Pursuant to 28 U.S.C. § 636(b) and Rule 1(d) of Appendix C of the Local Rules of the United States District Court for the Western District of Texas, Judge Howell issued his report and recommendation on May 15, 2023. (*Id.*). Plaintiff Carl A. Wescott ("Wescott") received the report and recommendation no later than May 20, 2022. (Dkt. 21). As of the date of this order, no party has filed objections to the report and recommendation.

Pursuant to 28 U.S.C. § 636(b), a party may serve and file specific, written objections to a magistrate judge's proposed findings and recommendations within fourteen days after being served with a copy of the report and recommendation and, in doing so, secure de novo review by the district court. When no objections are timely filed, a district court can review the magistrate's report and recommendation for clear error. *See* Fed. R. Civ. P. 72 advisory committee's note ("When no

timely objection is filed, the [district] court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”).

Because no party has filed timely objections, the Court reviews the report and recommendation for clear error. Having done so and finding no clear error, the Court accepts and adopts the report and recommendation as its own order.

Accordingly, the Court **ORDERS** that the Report and Recommendation of the United States Magistrate Judge, (Dkt. 18), is **ADOPTED**.

IT IS FURTHER ORDERED that Defendants’ motion to dismiss, (Dkt. 13), is **GRANTED**.

IT IS FINALLY ORDERED that Wescott’s claims are **DISMISSED WITH PREJUDICE**.

The Court will render final judgment by separate order.

SIGNED on June 20, 2023.

A handwritten signature in blue ink, appearing to read "Robert Pitman", written over a horizontal line.

ROBERT PITMAN
UNITED STATES DISTRICT JUDGE